

FILED

**NUNC PRO TUNC**

1 Chad McKinney  
2 Pro Se  
2 6266 Madeline St Apt #61  
3 San Diego, CA 92115  
3 619-634-3566

CLERK, U.S. DISTRICT COURT,  
SOUTHERN DISTRICT OF CALIFORNIA

MAY 09 2008

CLERK, U.S. DISTRICT COURT,  
SOUTHERN DISTRICT OF CALIFORNIA

BY: (1)

DEPUTY

**THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA**

CHAD MCKINNEY, an individual,

) CIV. Case No.07-cv-2373  
)  
) FOR VIOLATION OF FEDERAL  
) FALSE CLAIMS ACT AND FOR  
) VIOLATION OF THE  
) THE CIVIL RIGHTS ACT 1964 AND  
) THE AMENDMENTS TO TITLE  
) VII OF THE CIVIL RIGHTS ACT OF  
) 1991

Plaintiff,

) ) RETALIATION- WRONGFUL  
 ) ) TERMINATION &  
 ) ) EMPLOYMENT DISCRIMINATION  
 ) ) CIVIL ACTION

V.

APOLLO GROUP INC., UNIVERSITY OF  
PHOENIX, a Corporation, MECHELLE  
BONILLA, an Enrollment Manager at  
UNIVERSITY OF PHOENIX, KYAN  
FLYNN, Director of Enrollment at  
UNIVERSITY OF PHOENIX, APRIL  
ALCORN, an Employee Relations  
Consultant at UNIVERSITY OF PHOENIX  
CARLYN LINDSTEN, Associate Director of  
Enrollment at UNIVERSITY OF PHOENIX

**PLAINTIFF'S MOTION TO STRIKE  
THE DEFENDANTS' NOTICE OF  
NON- OPPOSITION TO MOTION TO  
DISMISS PLAINTIFF'S COMPLAINT,  
OR IN THE ALTERNATIVE, MOTION  
FOR MORE DEFINITE STATEMENT  
ALTERNATIVE, MOTION FOR MORE  
AND MOTION TO SET ASIDE ENTRY**

**OF DEFAULT**  
**NO ORAL ARGUMENT, UNLESS**  
**REQUESTED BY THE COURT**

RECORDED BY H

Date: May 12, 2001

Time: 11:00 a.m.

Judge: Hon. William O. Hayes

Demand for Trial by Jury Pursuant  
to U.S. Constitution, 7<sup>th</sup> Amendment  
May 9 2008

## Defendants

1 **PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF**  
 2 **PLAINTIFF'S MOTION TO STRIKE THE DEFENDANTS' NOTICE ON NON-**  
 3 **OPPOSITION TO MOTION TO DISMISS PLAINTIFF'S COMPLAINT, OR, IN THE**  
 4 **ALTERNATIVE, MOTION FOR MORE DEFINITE STATEMENT AND MOTION**  
 5 **TO SET ASIDE ENTRY OF DEFAULT**

6 I.  
 7

8 **SUMMARY OF PLAINTIFF'S COMPLAINT AGAINST THE DEFENDANTS'**  
 9

10 **COUNSEL, NATHAN HICKS**  
 11

12 The Plaintiff, received the "Defendant University of Phoenix, Inc.'s notice of non-  
 13 opposition to motion to dismiss plaintiff's complaint, or, in the alternative, motion for more  
 14 definite statement and motion to set aside entry of default (these documents were also sent by  
 15 the remaining defendant parties). This is not the first time the Plaintiff has not received all of  
 16 the documentation necessary to successfully defend himself before this honorable Court  
 17 (Please see previous notification in the ". It is the Plaintiff's Affidavit that he never received  
 18 the said documents. This may be found in the "PLAINTIFF'S MOTION IN OPPOSITION  
 19 TO DEFENDANT'S DOCUMENT ENTITLED: "APOLLO GROUP, INC.'S OPPOSITION  
 20 TO PLAINTIFF'S MOTION FOR CLERK'S ENTRY OF DEFAULT", page 2, paragraph 1,  
 21 which states; "Additionally, the Defendant neglected to send page 8 of the original document  
 22 entitled, "APOLLO GROUP, INC.'S OPPOSITION TO PLAINTIFF'S MOTION FOR  
 23 CLERK'S ENTRY OF DEFAULT" to the plaintiff. The plaintiff was forced to go the county  
 24 clerk's office of the court to confirm a missing page and get a copy of the missing page."

Also of ethical concern is the counsel's blatant disregard for the integrity of the Court.  
 This is evidenced by his recent submittal of the defense's document entitled "PLAINTIFF'S  
 REPLY TO THE UNIVERSITY OF PHOENIX, INC.'S OPPOSITION TO PLAINTIFF'S  
 MOTION FOR CLERK'S ENTRY OF DEFAULT", pages 3 through 4.

1       The counsel's apparent lack of concern for the Plaintiff's rightfully sworn human right  
2 to file a complaint in the United States Federal Court in an honest, competent manner. I have  
3 upheld my ability to perform my duty of honesty owed to the Court with the highest of  
4 esteem. However, the Plaintiff's ability to represent himself as a proper Pro Se attorney has  
5 been obstructed by the Defendants' counsel, Nathan Hicks, of Snell & Wilmer, L.L.P. For  
6 further evidence of the counsel's ethical consideration awarded to the Plaintiff as a  
7 professional colleague and participant in the pursuit of Justice, please see the Plaintiff's  
8 "Notice to the Court" submitted on March 3<sup>rd</sup>, 2008, which also cites Mr. Hicks, as "mistaken"  
9 as he has often cited as a defense, albeit however unbonified it is in the Court of law, the  
10 practices by the counsel Mr. Hicks appear to be deceptive, unethical in nature. If the Mr.  
11 Hick's culpability and contempt for the Pro Se Plaintiff, and the Court continue, the Plaintiff  
12 will deem no other option available, but to report Mr. Hick's unethical behavior to the  
13 California Bar Association for review.

14       It is the Plaintiff's notice to the Court as well, that it is ultimately his responsibility to  
15 travel to the Clerk's District Court office to reassert the completeness of documents sent to the  
16 Plaintiff by the Defendant, the Plaintiff expresses his deepest regret and apologies to the  
17 Honorable William Q. Hayes. The Plaintiff should have properly prepared himself for a  
18 deceptive strategy such as this, especially in consideration of the Defendant and the  
19 Defendants' attorney's regard and actions towards the equality of the Plaintiff. The Plaintiff  
20 throws his merciful plea for honesty and justice regarding his review of the case on May 12,  
21 2008, at 11:00 a.m., to the Hon. William Q. Hayes, of the United States Federal Court. Thank  
22 you very much for your time and consideration regarding the aforementioned claims set forth  
23  
24

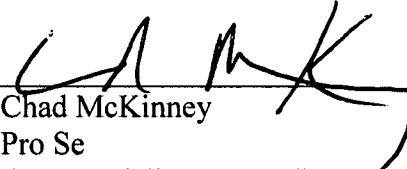
1 in this "NOTICE TO THE COURT REGARDING THE DEFENDANTS' COUNSEL,  
2 NATHAN HICKS, QUESTIONABLE, AT BEST, ETHICAL PRACTICES"

3 **II.**

4 **CONCLUSION**

5 In consideration of this document, the Plaintiff moves the Court to strike the  
6 Defendants' document entitled "DEFENDANT UNIVERSITY OF PHOENIX, INC.'S  
7 NOTICE OF NON-OPPOSITION TO MOTION TO DISMISS PLAINTIFF'S COMPLAINT,  
8 OR IN TH ALTERNATIVE, MOTION FOR DEFINITE STATEMENT AND MOTION TO  
9 SET ASIDE ENTRY OF DEFAULT" and grant the Plaintiff an exception to the F.R.C.P rules  
10 of filing timely, and accept this document as an Opposition to the Defendants' aforementioned  
11 document.

12  
13 Respectfully submitted,

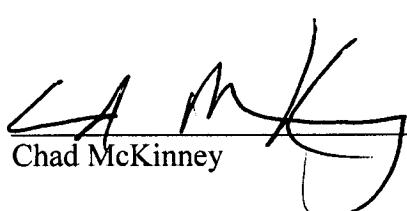
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16 Chad McKinney  
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San Diego, CA 92115  
619-634-3566  
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## **CERTIFICATE OF SERVICE**

I, Chad McKinney, hereby certify that on, May 9, 2008, I served copies of the Plaintiff's Motion and Memorandums of Points and Authorities to the court regarding his concern for counsel Nathan Hick's questionable, at best, ethical practices and appendices to the Court on the following parties by way of United States Postal Service First Class Priority Mail:

Snell & Wilmer L.L.P.  
Attention of: Nathan W. Hicks  
600 Anton Boulevard, Suite 1400.  
Costa Mesa, CA 92626

5/9/08  
Date

  
Chad McKinney

The United States District Court Southern District of California

1  
2 Chad McKinney  
3 Pro Se  
4 6266 Madeline St Apt #61  
5 San Diego, CA 92115  
6 619-634-3566

7 **THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA**

8  
9 **May 9, 2008**

10 **BY HAND DELIVERY**

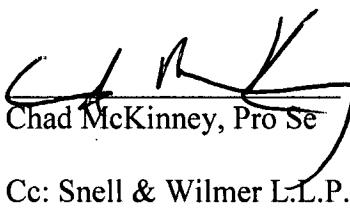
11  
12 The Honorable Judge William Q. Hayes  
13 Referred to: Magistrate Judge Cathy Ann Bencivengo  
14 330 West Broadway, San Diego  
15 CA 92101-3827

16  
17 Re: McKinney v. Apollo Group Inc., *et al*  
18 Civil Action 07-cv-2373

19  
20 Dear Judge Hayes,

21 Enclosed is a courtesy copy of the Plaintiff's Motions and Memorandums of Points and Authorities to  
22 the court regarding his concern for counsel Nathan Hick's questionable, at best, ethical practices and  
23 request to strike the Defendants' document. This was hand delivered with the Clerk today.

24  
25 Respectfully,

26  
27   
28 Chad McKinney, Pro Se

29  
30 Cc: Snell & Wilmer L.L.P.; Attention of: Nathan W. Hicks